

Agency Relationships – Disclosure - Consent

Section 87AAA3/4. (a) This section shall only apply to real estate brokers and salesmen for the intended purchase or sale of land with a building intended for use as 1 to 4 residential dwellings or the intended purchase or sale of land on which a building is intended to be constructed for use as 1 or 2 residential dwellings.

(b) A real estate broker or salesperson may act as a dual agent who represents both prospective purchasers and sellers only with the informed written consent of the prospective purchasers and sellers. Consent to dual agency shall be obtained in the form prescribed by the board and shall be signed and dated. Such written consent may be obtained when an agency relationship with the seller or purchaser is created, but notice of a dual agency relationship shall also be given to the prospective purchaser and to the seller after a listed property is first shown to the purchaser. Nothing herein shall require written notice to each prospective purchaser or seller who attends an open house showing of real property, provided that the broker or salesperson must conspicuously disclose the agency relationship.

(c) A real estate broker or salesperson and his affiliates may act for more than one party to a real estate transaction as designated agents only with informed written consent. With informed written consent in the form prescribed by the board, a real estate broker or salesman may appoint one or more licensees to act as a designated agent on behalf of a purchaser and may appoint one or more other licensees to act as a designated agent on behalf of a seller for a potential real estate transaction. With informed consent in the form prescribed by the board, a real estate broker or salesman may appoint one or more licensees to act as a designated agent on behalf of a seller and may appoint one or more other licensees to act as a designated agent on behalf of a purchaser for a potential real estate transaction. Appointment of a designated agent shall not be made unless the party has consented, at the commencement of the party's agency relationship with the real estate broker, that the party's designated agency relationship shall not extend to any other licensee affiliated with a broker and shall be limited to the licensees appointed to act as designated agent.

Upon appointment of a designated agent, the responsibility to satisfy agency duties owed to a purchaser or seller shall be solely the responsibility of the designated agent. Substitution of designated agents shall not be made without consent. When a broker or salesman or to other affiliated licensees. Notwithstanding the foregoing, a designated agent and an appointing broker or salesman shall each have an obligation to reveal know material defects in a listed property and shall comply with all other requirements of law. When a real estate broker or salesman has appointed designated agents for both a buyer and a seller, the broker or salesperson shall be presumed to be a dual agent, who does not exclusively represent either the buyer or seller. Appointment of a designated agent shall not limit the liability or responsibility of the appointing broker or salesperson for breach of duty by a designated agent.

(d) There shall be a conclusive presumption that a purchaser or seller has consented to a designated agency relationship, if he has signed a disclosure form that substantially contains the descriptions in this section and any other provisions required by law no later than the date that the buyer makes or submits an offer to purchase the property or that a purchase and sale agreement is executed, whichever is first. Consent may be given before identifying a property or transaction. Nothing herein shall require written notice of each prospective purchaser or seller who attends an open house showing of real property, provided that the broker or salesperson must conspicuously disclose the agency relationship.

(e) No real estate broker or salesman shall enter into or offer a subagency agreement to another real estate broker or salesperson when marketing a property for sale without informing the seller about vicarious liability and obtaining written consent of the seller.

(f) A real estate broker or salesman may provide services as a facilitator who does not represent a buyer or seller and who does not act in an agency capacity.